

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TRUSTEES OF THE AMALGAMATED
INDUSTRIAL and TOY & NOVELTY
WORKERS OF AMERICA, LOCAL 223 - SICK
BENEFIT FUND, PENSION FUND and LOCAL
223 HARRY O. DAMINO SCHOLARSHIP
FUND,

MEMORANDUM AND ORDER
Case No. 10-CV-3399 (FB) (VVP)

Plaintiffs,
-against-

SURPRISE PLASTICS, INC.,

Defendant.

Appearances:

For the Plaintiff:

DANIELLE MARLENE CARNEY, ESQ.
Barnes, Iaccarino & Shepherd, LLP
3 Surrey Lane
Hempstead, New York 11550

BLOCK, Senior District Judge:

On September 2, 2011, Magistrate Judge Pohorelsky issued a Report and Recommendation ("R&R") recommending that the Court award default judgment against defendant in the total amount of \$73,530.37, consisting of \$51,941.26 in unpaid contributions, \$8,206.56 in interest through August 31, 2011 plus \$17.31 per day thereafter to the date of judgment, \$10,388.25 in liquidated damages and \$2,475 in attorney's fees and costs. *See* R&R at 9. The R&R also stated that defendants' failure to object within fourteen days of receiving the R&R would preclude appellate review. *See id.* According to the docket, plaintiff's attorney mailed a copy of the R&R to defendant on September 7, 2011.

To date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

FREDERIC BLOCK
Senior United States District Judge

Brooklyn, NY
September 27, 2011